

Directive of the Bureau des services financiers concerning the complaints register

At its meeting held on October 24, 2001, the board of directors of the Bureau des services financiers adopted a directive concerning the application of section 103 of Bill 188, section 10.3 of the Regulation respecting the registration of firms, representatives and independent partnerships and sections 26 to 28 of the Regulation respecting firm, independent representative and independent partnership.

Context

Firms, independent representatives and independent partnerships are required to keep a register of the complaints received from their clients and to deal with these complaints with diligence in accordance with the rules determined by regulation.

However, as the legislator did not define the term “complaint,” the Bureau held several consultations with industry stakeholders, making sure that every sector was represented, as well as with representatives of consumers.

Objectives of the complaints register

The objectives of the complaint register are:

1. to ensure that all the registrants adopt common minimal rules regarding the processing of complaints, to the benefit of the clients;
2. to create a forum for consumers for the purpose of furthering the conciliation of their disputes and inform them on their recourses.

Directive

It is therefore in a spirit of harmonization and consumer protection that the Bureau adopted the following directive, which comprises:

- the definition of the term “complaint;”
- the form of the complaint;
- the steps to take before entering a complaint in the complaints register;
- the exemption from having to provide biannual reports on the complaints received during the last six months;
- a model of acknowledgement of receipt.

Definition of the term “complaint”

“The word *complaint* means a statement in writing, or on any medium that allows for its conservation, describing the facts or a situation likely to constitute a fault or a breach of the Act or its regulations.

Does not constitute a complaint a statement received further to a survey conducted by a firm, an independent representative or an independent partnership.”

The registrant is responsible for determining whether the situation described by the client constitutes a fault or a breach of the Act or its regulations.

It is essential to refer to the procedure pertaining to the processing of complaints to determine when a complaint must be entered in the complaints register.

The complaint may apply to any person working on behalf of the registrant such as, for example, a representative, an employee referred to by section 547 of the Act, an employee referred to by the directive of the Bureau concerning the definition of a claims adjuster, etc.

Form of the complaint

To be entered in the complaints register, a complaint must be in writing.

However, if the registrant has a telephone recording device that allows him to keep the recording of the conversation, the complaint may be verbal if the client requests that it be deposited.

Procedure pertaining to the processing of complaints in the case of a firm or an independent partnership having more than three representatives

The following stages must be completed before a complaint is entered in the complaints register:

1. When the client expresses his dissatisfaction for the first time, either in writing or verbally:

- identify with the client the nature of his request;
- entrust the operational staff (front line level) with the task of following up on the client's request.

2. If the dissatisfaction still persists:

- inform the client of the existence of a mechanism for the processing of complaints, by referring him to a staff member designated for that purpose (second level of intervention or higher authority);
- enter the complaint in the complaints register if the client makes his complaint by telephone and the registrant has a telephone recording device that allows him to keep a recording of the conversation. Otherwise, the client must submit his complaint in writing.

The staff member designated for this purpose must lend assistance to the consumer in writing his complaint if the latter has difficulty writing.

Where the complaint is entered in the complaints register, the person who is responsible for dealing with the complaint must follow the steps set out under sections 26 to 28 of the Regulation respecting firm, independent representative and independent partnership, which stipulate the following:

DIRECTIVE ON
COMPLAINTS REGISTER

“26. The complaints register that must be kept by firms, independent representatives or independent partnerships must indicate the following information for each complaint received:

1. the date it is received;
2. the name, address, telephone and facsimile numbers of the person who lodged the complaint and his electronic mail address, if any;
3. the nature of the complaint in accordance with the classification set out in Schedule 1 [not applicable, since Schedule 1 is under revision] and, in the case of a firm registered in the securities sector, a description of the securities to which the complaint refers;
4. the name of the representative, partner, director, officer, trainee, mandatary, or employee in respect of whom the complaint was made, as the case may be;
5. the date and manner in which the complaint was settled and the reasons which led the firm, independent representative or independent partnership to settle it in that manner;
6. whether notice was given to the insurer covering the liability of the person in respect of whom the complaint was lodged.”

“27. An independent representative, and in the case of a firm or an independent partnership, the officer responsible for the principal establishment of the firm or the partnership in Québec are responsible for the complaints register and the processing of complaints.”

“28. In dealing with any written complaint, a firm, an independent representative or an independent partnership must:

1. acknowledge receipt in writing to the person who lodged the complaint within 10 business days of receiving the complaint; the acknowledgement of receipt must indicate the name of the person designated to respond to the complaint or his designated assistant, where applicable, who will deal with the complaint, and his telephone number, the complainant's right to lodge the complaint directly with the Bureau, and the Bureau's mailing and electronic mail addresses, telephone and facsimile numbers;
2. promptly enter the complaint in the complaints register;
3. where a representative has been the subject of more than five complaints in a calendar year, give notice in writing to the Bureau within 20 days after receiving the fifth complaint [must read as follows: after receiving the sixth complaint];
4. deal with the complaint promptly and, in all cases provide a final answer within 3 months of the date the complaint was received;
5. take all necessary measures to ascertain the relevant facts necessary for a full understanding of the complaint;
6. when the complaint has been settled, advise the client thereof in writing, indicating the manner in which the complaint was settled, the scope and nature of the internal verifications and the reasons justifying the manner in which the complaint was settled.”

Procedure concerning the processing of complaints in the case of a firm or an independent partnerships having three representatives or less and an independent representative

The firm or the independent partnership having three representatives or less must process all complaints in writing in accordance with section 26 to 28 of the above Regulation respecting firm, independent representative and independent partnership. In such a case, the principle of the second level of intervention does not apply. If all the complaints received are kept together, this could be used as a complaints register.

The staff member designated for that purpose must lend assistance to the consumer in writing his complaint if the latter is unable to do so. He may also refer him to the Bureau des services financiers, which will provide writing services for consumers who have difficulty writing.

Biannual reports

The Bureau suspends the obligation for registrants to send biannual reports on the complaints received from their clients. However, the obligation to notify the Bureau if a representative has been the subject of more than five complaints in a calendar year remains.

The inspection branch of the Bureau will examine the complaints register and the procedure regarding the processing of complaints implemented by registrants.

Information tours

The Bureau will conduct information campaign at the beginning of 2002.

End of the moratorium

The Bureau expects that the registrants will deal with the complaints received from their clients in accordance with this directive and set up a complaints register by March 31, 2002.

Model of Acknowledgement of Receipt

CONFIDENTIAL

« Date »

“Ms. ou Mrs.” “Mr.”

« Adresse »

« Ville » « Province » « Code postal »

Subject: Complaint in respect of: “Nom”

Dear “Ms.”, “Ms.”, “Mr.” (suivi du nom de famille du ou de la destinataire):

We acknowledge receipt of your correspondence of “date”
(*complaint in writing*)

OR

This letter is in reference to your telephone conversation of “date”, with “nom”, during which you expressed your intention to file a complaint in respect of “nom”.
(*verbal complaint when the registrant has a system allowing him to record the conversation*)

We will give your complaint serious consideration.

The person who is responsible for dealing with your complaint is: “name of the executive or the partner responsible for the firm or independent partnership, or of the independent representative”, whom you can reach at the following telephone number: “telephone”.
(*where the signatory of the acknowledgement of receipt is not the person responsible for following up on the complaint*)

On the other hand, we also wish to inform you that there are organizations that are responsible for the supervision of the distribution of financial products and services, with which you may file your complaint. To do so, please contact the Bureau des services financiers at the following address; the latter will forward your complaint to the organization concerned:

Bureau des services financiers
Information and Referral Centre
140, Grande-Allée Est, Suite 300
Québec (Québec) G1R 5M8
Tel.: (418) 525-6273 or 1 877-525-6273 Fax: (418) 525-9512

You may rest assured that we will send you the results of our analysis in writing within the next three months.

Yours truly,

“Signature”